

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of ALEXIA VANCLEVE, Minor.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

DENNIS VANCLEVE,

Respondent-Appellant.

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UNPUBLISHED

March 13, 2007

No. 272576

Genesee Circuit Court

Family Division

LC No. 06-120707-NA

Before: Servitto, P.J., and Talbot and Schuette, JJ.

PER CURIAM.

Respondent appeals as of right from an order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i), (h), (j), and (k)(ii). The termination trial in this case occurred on July 19, 2006. We also note at the outset that the child died in a house fire in November 2006. We affirm the decision of the trial court.

**I. FACTS**

On January 11, 2006, the Genesee County Department of Human Services filed a petition for termination of respondent's parental rights. The petition alleged that respondent sexually abused the child's three older siblings. On May 22, 2006, respondent pleaded guilty to criminal sexual conduct involving the child's three half sisters. Respondent admitted that he sexually molested the girls on three separate occasions between 2002 and 2005, while each of the girls were under the age of 13. His earliest release date is May 7, 2013, and his maximum discharge date is March 7, 2021. Respondent's parental rights were terminated on July 19, 2006 under MCL 712A.19b(3)(b)(i), (h), (j) and (k)(ii).

**II. STATUTORY GROUNDS FOR TERMINATION**

**A. Standard of Review**

Termination of parental rights is appropriate where petitioner proves by clear and convincing evidence at least one ground for termination. *In re Trejo*, 462 Mich 341, 356; 612 NW2d 407 (2000). Once this has occurred, the trial court must terminate parental rights unless it

finds that the termination is clearly not in the best interests of the child. *Id.* at 364-365. This Court reviews the trial court's findings under the clearly erroneous standard. MCR 3.977(J); *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003). A finding of fact is clearly erroneous if a reviewing court has a definite and firm conviction that a mistake was made, giving due regard to the trial court's special opportunity to observe the witnesses. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

## B. Analysis

We conclude that the trial court did not err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, *supra* at 337. Under MCL 712A.19b(3), the trial court may terminate parental rights where it finds, by clear and convincing evidence, any one of the following:

(b) The child or a sibling of the child has suffered physical injury or physical or sexual abuse under 1 or more of the following circumstances:

(i) The parent's act caused the physical injury or physical or sexual abuse and the court finds that there is a reasonable likelihood that the child will suffer from injury or abuse in the foreseeable future if placed in the parent's home.

\* \* \*

(h) The parent is imprisoned for such a period that the child will be deprived of a normal home for a period exceeding 2 years, and the parent has not provided for the child's proper care and custody, and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

\* \* \*

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

(k) The parent abused the child or a sibling of the child and the abuse included 1 or more of the following:

\* \* \*

(ii) Criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate.

In this case, respondent pleaded guilty to criminal sexual conduct involving the child's three older half sisters. Respondent admitted that he sexually molested the girls when he was living with their mother on three separate occasions between 2002 and 2005. Each of the girls were under the age of 13. Respondent admitted that he asked each of the girls to touch his penis and masturbate him until he ejaculated. His earliest release date is May 7, 2013, and his

maximum discharge date is March 7, 2021. Given the seriousness of the offense, the length of the sentence, and the fact that the victims were the child's siblings, termination was proper under MCL 712A.19b(3)(b)(i), (h), (j), and (k)(ii).

### III. BEST INTERESTS OF THE CHILD

#### A. Standard of Review

Once a statutory ground for termination is established by clear and convincing evidence, the trial court must terminate parental rights unless termination clearly is not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 364-365. The trial court's decision on the best interests question is reviewed for clear error. *In re Trejo, supra* at 356-357.

#### B. Analysis

Here, the evidence did not show that termination of respondent's parental rights was clearly not in the best interests of the child. To the contrary, the caseworker testified that if the child were to continue a relationship with respondent, she was a potential target for sexual abuse. Additionally, respondent will continue to be incarcerated and unable to provide proper care for the child until at least 2013. Therefore, the trial court did not err in concluding that termination of respondent's parental rights was not against the child's best interests in this case.

Affirmed.

/s/ Deborah A. Servitto  
/s/ Michael J. Talbot  
/s/ Bill Schuette